Office-Supreme Court, U.S.
FILED
FEB 11 1985
ALEXANDER L. STEVAS,
CLERK

(20)

84-468

In The Supreme Court of the United States
October Term, 1984

CITY OF CLEBURNE, TEXAS, ET AL.,

Petitioners,

v.

CLEBURNE LIVING CENTER, INC., ET AL.,

Respondents.

On Writ of Certiorari to the
United States Court of Appeals
for the Fifth Circuit

OBJECTIONS OF PETITIONERS TO MOTIONS OF DISABILITY RIGHTS EDUCATION AND DEFENSE FUND, INC., NATIONAL ASSOCIATION FOR RIGHTS PROTECTION AND ADVOCACY, ET AL., NATIONAL CONFERENCE OF CATHOLIC CHARITIES, ET AL., AMERICAN CIVIL LIBERTIES UNION FOUNDATION, ET AL., AMERICAN ASSOCIATION ON MENTAL DEFICIENCY, ET AL., ASSOCIATION FOR RETARDED CITIZENS/USA, ET AL., DISABLED PEOPLES' INTERNATIONAL AND HUMAN RIGHTS ADVOCATES, INC., FOR LEAVE TO FILE BRIEFS AS AMICI CURIAE

Earl Luna, Counsel of Record
Robert T. Miller, Jr.
Mary Milford
Law Offices of Earl Luna, P.C.
2416 LTV Tower
1525 Elm Street
Dallas, Texas 75201
(214) 747-1582

Counsel for Petitioners

6

84-468

In The Supreme Court of the United States

October Term, 1984

CITY OF CLEBURNE, TEXAS, ET AL.,

Petitioners,

v.

CLEBURNE LIVING CENTER, INC., ET AL.,

Respondents.

On Writ of Certiorari to the
United States Court of Appeals
for the Fifth Circuit

OBJECTIONS OF PETITIONERS TO MOTIONS OF DISABILITY RIGHTS EDUCATION AND DEFENSE FUND, INC., NATIONAL ASSOCIATION FOR RIGHTS PROTECTION AND ADVOCACY, ET AL., NATIONAL CONFERENCE OF CATHOLIC CHARITIES, ET AL., AMERICAN CIVIL LIBERTIES UNION FOUNDATION, ET AL., AMERICAN ASSOCIATION ON MENTAL DEFICIENCY, ET AL., ASSOCIATION FOR RETARDED CITIZENS/USA, ET AL., DISABLED PEOPLES' INTERNATIONAL AND HUMAN RIGHTS ADVOCATES, INC., FOR LEAVE TO FILE BRIEFS AS AMICI CURIAE

TO THE HONORABLE CHIEF JUSTICE OF THE UNITED STATES AND THE HONORABLE ASSOCIATE JUSTICES OF THE SUPREME COURT OF THE UNITED STATES:

Petitioners respectfully object to the Motions for Leave to File Briefs as Amici Curiae of Disability Rights Education and Defense Fund, Inc., National Association for Rights Protection and Advocacy, et al., National Conference of Catholic Charities, et al., American Civil Liberties Union

Foundation, et al., American Association on Mental Deficiency, et al., Association for Retarded Citizens/USA, et al., Disabled Peoples' International and Human Rights Advocates, Inc., and any other movants who file Motions for Leave to File Briefs as Amici Curiae in support of Respondents for the following reasons:

1.

Attorneys General for the States of Pennsylvania, Iowa, Michigan, Minnesota, New Hampshire, New Jersey, Ohio, Wisconsin, Maryland, Connecticut, Arkansas, California, Colorado, Illinois, Louisiana, North Dakota, Rhode Island, Tennessee, West Virginia, and Texas have filed briefs as amici curiae in support of Respondents pursuant to Rule 36.4 of the Rules of the Supreme Court which precludes the necessity for them to obtain the consent to the filing of their briefs as amici curiae. Petitioners are only allowed a maximum of twenty pages to reply to the Respondents and twenty Attorneys General. It is not possible for Petitioners, therefore, to answer additional amici. It would not be fair to permit amici to file briefs that cannot be answered because of the space limit.

2.

Ample briefs of amici curiae have already been filed by the State Attorneys General to advise this Court of different views on the matters before this Court. The time limitation on Petitioners also prohibits them from being able to answer the large number of briefs that have been tendered. Therefore, it would be an impossible task for the Petitioners to reply to those seeking to have their motions granted because of the space and time limitations that exist. For these reasons, Petitioners strenuously object to the filing of such amici briefs. This Court's statement regarding another rule of civil procedure is just as applicable to Rule 36 and the position in which the Petitioners find

themselves — Rule 36 ". . . was written to further, not defeat the ends of justice." *Surowitz v. Hilton Hotels Corporation*, 383 U.S. 363, 373 (1966). To permit the filing of these amici curiae briefs would be extremely unjust to the Petitioners.

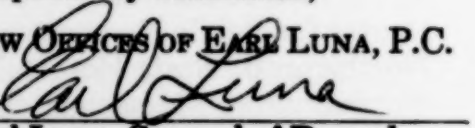
3.

Petitioners further object to the Motion of the American Civil Liberties Union Foundation, et al., for the reason that its proposed brief deals primarily with issues and questions not raised by the parties to this proceeding and not made the basis of the Petition for which certiorari was granted in this case. Furthermore, these extraneous issues are not necessary or germane to a decision of the issues properly before this Court.

WHEREFORE, PREMISES CONSIDERED, Petitioners respectfully pray that the Motions for Leave to File Briefs of Disability Rights Education and Defense Fund, Inc., National Association for Rights Protection and Advocacy, et al., National Conference of Catholic Charities, et al., American Civil Liberties Union Foundation, et al., American Association on Mental Deficiency, et al., Association for Retarded Citizens/USA, et al., Disabled Peoples' International and Human Rights Advocates, Inc., and any others who file Motions for Leave to File Briefs as Amici Curiae in support of Respondents be denied.

Respectfully submitted,

LAW OFFICES OF EARL LUNA, P.C.



Earl Luna, Counsel of Record
Robert T. Miller, Jr.
Mary Milford
2416 LTV Tower
1525 Elm Street
Dallas, Texas 75201
(214) 747-1582

CERTIFICATE OF SERVICE

I, Earl Luna, counsel of record for Petitioners and a member of the Bar of the Supreme Court of the United States, hereby certify that I have served three copies of the Objections of Petitioners to the Motions of Disability Rights Education and Defense Fund, Inc., National Association for Rights Protection and Advocacy, et al., Disabled Peoples' International and Human Rights Advocates, Inc., National Conference of Catholic Charities, et al., American Civil Liberties Union Foundation, et al., American Association on Mental Deficiency, et al., and Association for Retarded Citizens/USA, et al., for Leave to File Briefs as Amici Curiae on all parties required to be served and on the movants of the Motions for Leave to File Briefs as Amici Curiae by depositing three copies of the same in the United States mail, on the 8th day of February, 1985, with first-class postage prepaid addressed to the following counsel of record at the addresses indicated, to-wit:

Mr. Renea Hicks
Ms. Diane Shisk
Advocacy Inc.,
7700 Chevy Chase Drive,
Austin, Texas 78752

Ms. Arlene Brynne Mayerson
2032 San Pablo Avenue
Berkeley, California 94704

Mr. Steven J. Schwartz
Center for Public Representation
Northampton State Hospital
Northampton, Massachusetts 01061

Mr. David Ferleger
37 South 20th Street
Suite 601
Philadelphia, Pennsylvania 19103

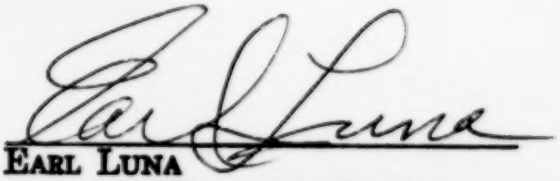
Ms. Karen Parker
154 Fifth Avenue
San Francisco, California 94118

Mr. Lewis A. Golinker
New York Lawyers for the
Public Interest, Inc.
36 West 44th Street
New York, New York 10036

Mr. Burt Neuborne
American Civil Liberties
Union Foundation
132 West 43rd Street
New York, New York 10036

Mr. James W. Ellis
1117 Stanford, NE
Albuquerque, New Mexico 87131

Mr. Thomas K. Gilhool
Public Interest Law Center
of Philadelphia
1315 West Walnut Street, Suite 1632
Philadelphia, Pennsylvania 19107



EARL LUNA
Counsel of Record for Petitioners